

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
February 9, 2016

2:00 P.M. TOUR – WASTE MANAGEMENT AND NORTH POINTE SOLID WASTE SPECIAL SERVICE DISTRICT

TOUR – Waste Management and North Pointe Solid Waste Special Service District

Those from the City who attended the tour were: Mayor Richard F. Brunst, Councilmembers Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, and Brent Sumner; City staff members Jamie Davidson, Brenn Bybee, Steven Downs, Bill Bell, Karl Hirst, Scott Gurney, Gary Giles, Charlene Crozier, Richard Manning, and Jackie Lambert.

Waste Management (WM) staff Beth Holbrook, Brad Kloos, and Brian Eberhard conducted a tour of the Orem Waste Management facility. Waste Management staff provided information about compressed natural gas (CNG) pickup trucks, service routes in Orem and other cities WM serves.

Mr. Lentz asked Mr. Kloos what the WM drivers wished those on their routes knew to help improve the level of service to them. Mr. Kloos said generally they did not have many issues with their pickup routes. The most helpful thing would be for residents to remember to place cans three feet apart from each other, and to remember not to place cans near parked cars or other obstructing objects.

Those from the City who attended the tour were: Mayor Richard F. Brunst, Councilmembers Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, and Brent Sumner; City staff members Jamie Davidson, Brenn Bybee, Steven Downs, Bill Bell, Karl Hirst, Scott Gurney, Gary Giles, Charlene Crozier, Richard Manning, and Jackie Lambert.

District Manager Roger Harper conducted a tour of the North Pointe Special Service District Transfer Station. Mr. Harper gave a presentation on the history of North Pointe and other statistical information about the special service district and the transition to being a solid waste transfer station. The tour included the main A and B buildings for mixed residential waste, the construction and demolition waste area, the green waste area, and the cardboard and concrete recycling areas.

4:00 P.M. WORK SESSION – PUBLIC SAFETY TRAINING ROOM

CONDUCTING

Mayor Richard F. Brunst

ELECTED OFFICIALS

Councilmembers Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Greg Stephens, City Attorney; Richard Manning, Administrative Services Director; Bill Bell, Development Services Director; Karl Hirst, Recreation

Director; Chris Tschirki, Public Works Director; Scott Gurney, Fire Department Director; Gary Giles, Police Department Director; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Neal Winterton, Water Division Manager; Reed Price, Maintenance Division Manager; Steven Downs, Assistant to the City Manager; and Jackie Lambert, Deputy City Recorder

EXCUSED

Tom Macdonald

FOLLOW-UP – Waste Management Tour

Beth Holbrook, Waste Management Public Sector Solutions Manager, thanked the City for the opportunity to host the tour and provide more information about Waste Management operations. They were happy to be the service providers for Orem. She said they were hoping to educate residents on recycling to have a more productive and streamlined recycling program. They did a lot of community events, including e-waste recycling activities that were coordinated through LG. She said the most recent e-waste recycling activity was a great success, and she looked forward to more activities like that in the future. Ms. Holbrook said an issue that sometimes came up was fire within the garbage trucks, or at North Pointe. She said there were times when residents did not know how to properly dispose of flammable waste, and sometimes that combustible waste started fires in the garbage trucks. That would be a problem in a regular garbage truck, but was particularly dangerous for the compressed natural gas (CNG) trucks. She encouraged residents not to simply throw flammable waste into the garbage cans but to take the time to learn how to properly dispose of it.

Mayor Brunst thanked Ms. Holbrook and Mr. Bybee for coordinating the tour. He said Orem was lucky to work with Waste Management and the North Pointe Special Service District.

DISCUSSION – Automated Metering Infrastructure

Mr. Tschirki presented information about Automated Metering Infrastructure (AMI). He said they had installed AMI readers at approximately nineteen residences, including the homes of the Mayor, the previous City Council, and some City staff. He said the meters allowed consumers to review the data about their own personal water consumption. He showed some graphs with actual data from his own home for water consumption over the last twelve months. In reviewing that data, he said he had determined there was a leak in a basement bathroom. The toilet was the problem. Without the AMI reader he likely would not have found the leak for some time. The toilet was running, but very quietly and the leak was almost imperceptible. He saw that over the course of one month that leak caused a water loss of approximately 5,808 gallons of water. He saw that the leak had gotten worse over time, and was able to see that through the data collected by AMI. He said the calculation of water usage was much higher than actual gallons used because of the leak and he would have to pay for that amount. AMI was a helpful tool for the consumer to monitor water usage and catch leaks before they became significant. This would also help the City because less water would be lost to leakage.

Mr. Tschirki said of the nineteen AMI readers installed, four of them had shown leaks which was a high percentage in such a small group. Because of inaccurate meter reading, some residents were paying approximately 30 percent of what they should be paying for water while others were paying 120 percent. The AMI system would help address fairness and conservation issues. He

said the readers would provide leak detection, backflow detection, liability reduction, and would improve customer service and water conservation.

Mr. Winterton said some consumers were alerted to leaks and chose to do nothing about them because paying the extra for their water bill was cheaper than fixing the problem. That was an issue they hoped to address.

Mr. Tschirki said AMI would make for better circumstances for meter readers, who often ran into animals and other pests, as well as irate customers. He said Senate Bill 28 was currently being discussed in the Utah State Legislature. The bill required retail water providers to establish an increasing rate structure for culinary water and provide certain information to customers such as block unit rates, billing cycles, and individual customer water usage. He said it would likely include a tiered rate structure not unlike that used by Rocky Mountain Power. This was a statewide issue, not just an Orem one.

Mr. Lentz asked if the AMI would allow for an alert set at a certain gallon amount. Mr. Tschirki said depending on the manufacturer that was a possibility. Some AMI systems allowed for leak alerts to be edited by the customer and they could access and export the data for their own tracking if they wished. That put the power into their hands in analyzing their own water consumption.

Mr. Winterton said the dashboard and specific interface that customers would use was dependent on the service provider. He said he believed most providers had an alert setting the customers could control.

Mayor Brunst asked if the new Council members could have the AMI readers installed at their homes. Mr. Tschirki said he could do that.

DISCUSSION – CARE Five-Year Plan

Mr. Hirst said there were three projects they were currently addressing: the splash pad, the dog park, and the All-Together Playground. He said the Recreation Advisory Commission (RAC) had suggested potentially tabling the dog park funding to reallocate funding toward the splash pad at this time. He reiterated that the RAC's suggestion was just that—a suggestion, and the ultimate decision would be up to the City Council. Another item the RAC had discussed was a refurbishment of the Orem Fitness Center (OFC). During the OFC's annual fall maintenance shutdown they hoped to install a Myrtha liner in the competitive pool, retile the hot tub and steam room, add some ADA lifts, and reline the sewer laterals from the showers and toilets. The RAC had considered adding some funding to those proposed projects, as well as potentially giving to cosponsored sports' operating and management funds. Mr. Hirst said the hope was to get Council direction and feedback, and bring a recommendation for CARE recreation allocations through the next five years.

Mayor Brunst said it would not be his preference to table the dog park, as he regularly received feedback from residents who wanted a dog park sooner rather than later. He said it would be good to focus on the three projects of the splash pad, the dog park, and the all-abilities playground until the funding was there before bringing in other projects like the OFC refurbishment for consideration. He thought if the City was going to build a splash pad, they

should do it well. He said he liked the idea of the cosponsored sports support, and he wanted to make improvements at the OFC in the future.

Mr. Davidson said the goal of the five-year plan was to determine a project's funding allocation and prioritization, and look at the best options for each project. He said with a plan in place they could more easily decide how to fund certain projects, and if opportunity costs should be considered. They had funding options to consider as well.

Mayor Brunst asked if a dog park could be financed and built this year. Mr. Hirst said it could, and the plan he was working on included the dog park and the splash pad for this year. He said he had some funds available that were savings from the new OFC indoor pool a few years ago that could be used to have design plans drawn up. He was not able to give more specific data at this point because he needed some direction from the Council first.

Mr. Davidson said the money was available for the projects across the five years, but the question was how to make it work from a cash flow perspective. They needed to determine what would make the most sense in terms of where and how the funding would flow.

Mr. Sumner said he would like to hear the full recommendation of the RAC. He asked Mr. Hirst if the dog park issue was being pushed unnecessarily, and the RAC's recommendation made more sense at this time. Mr. Hirst said he still regularly heard from dog owners that wanted a dog park. The tentative location by the Skate Park had seen less resistance than other proposed locations, though he had received emails about concerns for traffic and the proximity to the fire station.

Mr. Spencer said the RAC had looked at the current allocation amounts and thought the splash pad would make more sense to fully fund at this point.

Mr. Seastrand wondered what the big picture plan was for the OFC. He said revenue was lower there than it had been in many years, despite the new pool and other refurbishments made. He asked what the strategy was to raise the revenues, and if it made sense to spend approximately \$3 million to fix it up. He personally was struggling to see the end game.

Mr. Davidson said he understood Mr. Seastrand's concerns. Mr. Davidson said the approximately \$3 million dollars at the OFC would not be for new amenities only but would include ongoing maintenance issues that needed to be addressed. Many had been delayed time and time again, and could no longer be ignored. He said the idea of "breaking even" with the OFC did not make sense, as the OFC had never been breakeven. There were capital costs in addition to staff and ongoing maintenance costs. Services like police, fire, parks, and most recreation centers did not break even. He said a better business plan could be developed for the OFC, but it was something of a specialty facility in the face of the gyms and CrossFit centers popping up on every corner. It was a facility for the whole family.

Mrs. Lauret suggested that the City reach out to the County regarding the All-Together Playground. She asked if it was Mr. Hirst's suggestion to table the splash pad to accommodate the "face lift" for the OFC. Mr. Hirst said it was his suggestion not to table the splash pad, and that the OFC upgrades could be done next year.

Mr. Lentz asked if a revenue bond was being considered against CARE funds. Mr. Davidson said it was not, but the idea was to borrow from City funds and charge an interest rate so that the following year the CARE allocation would reimburse the other fund. He said it was an opportunity to leverage the finance through Orem.

Mr. Seastrand restated his concern that CARE tax monies were being used to cover certain costs because the revenue was not being generated. He did not want facilities like the OFC to be so heavily CARE tax dependent that they could not feasibly be maintained without it.

Mr. Davidson said he understood Mr. Seastrand's concern, and said they tried to be sensitive to that issue. The CARE tax 50/50 split between recreation and cultural arts was also something they needed to balance.

DISCUSSION – Siemens Energy Update

Mr. Bell said he hoped to answer questions the Council may have about the proposed Siemens item on the evening agenda. He said the upgrades from this agreement would save close to \$50,000 a month in energy savings for the City. They wanted to be good stewards and protect the amenities of the City in such a way that would not require new money. He introduced Mark Cram, Kevin Brown, and Trevor Mays with Siemens who were available to answer questions.

Mr. Seastrand asked if the agreement would have the City coming out ahead in terms of finance. Mr. Bell said the guarantee from Siemens was that if the savings were not met or fell short, then Siemens would pay to make up the difference.

Mr. Davidson said in order to save money some money would have to be spent. The agreement with Siemens provided the financial mechanics to allow the City to make necessary changes and upgrades and repay the money over time based on savings generated.

Mr. Bell shared an example of the Senior Center boiler. He said it was scheduled to be replaced under the Siemens agreement, and earlier that week Orem staff Charlie Powell was performing a routine check of the boiler and found a hole. Mr. Bell said that boiler would cost \$90,000.

Mr. Sumner asked what Orem's responsibility would be if the lights were replaced by Siemens and then a better product came about some three or four years later.

Mr. Bell said it was possible newer/better products would come about in the future, but replacing the lights now would see the savings now. As items rotated through the system, they were warranted for twelve years with this project. If a light malfunctioned or went out, Siemens would send a contractor to fix it.

Mr. Cram said the cost of sending a contractor was part of the contract so the City would not be billed for that. Some costs were built into the cash flow model. He said the materials themselves were under warranty. They had taken the manufacturer's calculations on failure rates and they did so conservatively, but there would be a cost for replacing. Orem staff could continue to do the replacing, or work with Siemen's contractor Taylor Electric, Inc.

Mr. Sumner said he was concerned about the complaints in the past about the dimness or brightness of street lights. He worried about replacing all the City's street lights without first testing the lights in a smaller area.

Mr. Brown said they were working with the same manufacturer the City already worked through, so they would be the same lights. He said they had done the streetlight replacements in six other Utah cities. The LED lights were a better quality light as well as more energy efficient. They would be installed according to City specifications. He said there would likely still be occasional complaints, but they had done everything they could to keep light from being cast into homes. Comments about the street lights were more often positive than negative.

Mr. Cram said LED street lighting was now acceptable to Rocky Mountain Power, and he believed many other cities would be making the change to LED street lighting in the near future. Mr. Davidson agreed, and added that there may be a time soon when LED street lighting was the only option.

Mr. Lentz said he had LED lighting on his street and he loved it. He asked if during the course of the upgrades an identified project could become irrelevant and what happened to the funds budgeted for that project? Mr. Bell said most likely that funding would go into a contingency account.

Mayor Brunst asked about the time period for the upgrades. Mr. Cram said it would be an eighteen-month period. He said most of the measures would take twelve months or less, but they wanted to have a cushion if needed for large projects like street lights. He said once the agreement was in place, they could begin work on the project within sixty days of the agreement's execution.

Mayor Brunst asked for references from other cities that had worked with Siemens. Mr. Bell said City engineer Taggart Bowen had spoken with every reference Siemens had provided in Utah, and they had only good things to say.

5:00 P.M. STUDY SESSION – PUBLIC SAFETY TRAINING ROOM

CONDUCTING

Mayor Richard F. Brunst

ELECTED OFFICIALS

Councilmembers Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Greg Stephens, City Attorney; Richard Manning, Administrative Services Director; Bill Bell, Development Services Director; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Scott Gurney, Fire Department Director; Gary Giles, Police Department Director; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Paul Goodrich, Transportation Engineer; Keith Larsen, Traffic Operations

Engineer; Sam Kelly, Engineer; Neal Winterton, Water Division Manager; Reed Price, Maintenance Division Manager; Steven Downs, Assistant to the City Manager; and Jackie Lambert, Deputy City Recorder

EXCUSED

Tom Macdonald

Preview Upcoming Agenda Items

Staff presented a preview of upcoming agenda items.

Agenda Review

The City Council and staff reviewed the items on the agenda.

City Council New Business

There was no City Council new business.

The Council adjourned 5:48 p.m. to the City Council Chambers for the regular meeting.

6:00 P.M. REGULAR SESSION – COUNCIL CHAMBERS

CONDUCTING

Mayor Richard F. Brunst

ELECTED OFFICIALS

Councilmembers Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Greg Stephens, City Attorney; Richard Manning, Administrative Services Director; Bill Bell, Development Services Director; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Scott Gurney, Fire Department Director; Gary Giles, Police Department Director; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Steven Downs, Assistant to the City Manager; and Jackie Lambert, Deputy City Recorder

EXCUSED

Tom Macdonald

**INVOCATION /
INSPIRATIONAL THOUGHT
PLEDGE OF ALLEGIANCE**

Drew Burton
Sam Bunker

APPROVAL OF MINUTES

Mr. Sumner **moved** to approve the December 8, 2015, City Council meeting minutes. Mr. Lentz **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, Brent Sumner. The motion **passed unanimously**.

Mr. Sumner **moved** to approve the January 12, 2016, City Council meeting minutes. Mr. Lentz **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, Brent Sumner. The motion **passed unanimously**.

Mr. Sumner **moved** to approve the January 26, 2016, City Council meeting minutes. Mr. Lentz **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, Brent Sumner. The motion **passed unanimously**.

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Upcoming Events

The Mayor referred the Council to the upcoming events listed in the agenda packet. A ribbon cutting for Advanced Auto Parts would be taking place on February 13, 2016, at 1484 North State Street. He noted that the time had been changed to 10:00 a.m. The Utah League of Cities and Towns Midyear Convention had been scheduled for April 6-8, 2016, at the Dixie Center in St. George.

Appointments to Boards and Commissions

Mr. Seastrand **moved** to reappoint Garr Judd and Keith White to the Transportation Advisory Commission. Mrs. Lauret **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, Brent Sumner. The motion **passed unanimously**.

Recognition of New Neighborhoods in Action Officers

Mr. Hirst introduced the Mountain View Youth Football team, who had recently participated in the State Championship games. The team's Head Coach stated that this was the first time their team had been able to accomplish the feat of taking the championship in the A Division in over a decade. He expressed appreciation for the youth leaders on and off the field, and was excited to introduce the athletes to the City leaders.

The Mayor asked the players to come up and shake hands with the City Council members, and took a photograph with the team.

PROCLAMATION – National FCCLA Week

Mayor Brunst read the following Proclamation for National FCCLA Week:

Whereas Family Career and Community Leaders of America, the national nonprofit family-focused student organization for family and consumer sciences students through grade twelve, helps youth assume the their roles in society through family and consumer sciences education and areas of personal growth, of family life, of vocational preparation, of college readiness, of leadership, and of community involvement. And whereas the organization extends classroom learning through chapter projects that develop leadership and initiative, and helps young men and women learn how to plan, make decision, and carry out, and evaluate programs of action as they work with other youth and adults in their school and community. And whereas Family

Career and Community Leaders of America offers members an opportunity to work together for common purposes, for the improvement of themselves, their families, and their communities. And whereas the week of February 7th through February 13th, 2016, has been designated National FCCLA week, with the theme “Empower”. Now therefore I, Richard F. Brunst, Jr., Mayor of the City of Orem in Utah, do hereby designate February 7 through 13, 2016 as the national FCCLA Week in the City of Orem, and encourage all citizens to acquaint themselves with the activities and values of Family Career and Community Leaders of America, to show interest in it, and to give help and encouragement to the young men and women who are working to achieve knowledge and experience that will help prepare them for their future responsibilities as active and concerned adult members of society. Dated this 9th day of February, 2016.

Mr. Spencer **moved** to accept the proclamation. Mr. Seastrand **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, Brent Sumner. The motion **passed unanimously**.

REPORT – Beautification Advisory Commission

Sean Orullian, a member of the Beautification Advisory Commission, introduced fellow members Gayla Muir, Jim Campbell, and Carol Manwaring, and stated that other members would be joining them shortly. Mr. Orullian thanked the Council for the opportunity to serve the community. The mission statement of the Commission is:

The Beautification Commission serves as an essential component in making Orem a great City. We work to help our fellow citizens and business owners understand and do their part in making Orem a more beautiful and appealing place to live. We recognize and support those individuals who strive to do their part.

Mr. Orullian then listed some of the Commission’s accomplishments of 2015, including the addition of three new members, their participation in the Arbor Day festivities and the Summerfest parade, the presentation of residential and business beautification awards, the initiation of the Adopt-a-Pot program, and continuation of the Hanging Flower Pot project, and holiday home decorating recognition. Mr. Orullian explained that they also started the UVU and Orem banner program, but the banners did not work as they planned, and UVU was currently working to make more weather-resistant banners to put up.

Ms. Muir explained the Beautification Award process, and presented photographs of several homes that received the award last year. The Commission believed that these beautiful yards and the awards inspire others neighbors to follow suit.

Chelsea Young, one of the newest members of the Commission, arrived to the meeting and updated the Council on the Adopt-a-Pot program. The City wanted to bring more life and greenery to the businesses along State and Center Streets, so the Commission approached various businesses and asked if they would be willing to pay \$50 to adopt a pot to be placed in front of their business place. They would be given the pots and flowers, along with care instructions. In 2015, fourteen businesses participated in the program, and the Commission hoped for an additional fourteen businesses in the upcoming year. Ms. Young expressed appreciation for Cook’s Nursery for the donations made to this program. Additionally, Mr. Orullian thanked Mr. Sumner for purchasing a pot for his business last year.

Ms. Young then updated the Council on the progress of the Hanging Flower Pot project, which has been in place for four years. Those flowers were also provided by Cook's Nursery.

Mr. Orullian stated that the Commission had been giving holiday home decoration recognition awards for a few years, with much success. He presented photographs of some of the homes that received awards this past year. Mr. Orullian then listed the Commission's goals for 2016, as follows:

1. Encourage methods and practices that increase civic pride and enhance the beauty of Orem.
2. Make recommendations for neglected or unsightly areas of the City.
3. Encourage residences, businesses and property owners to participate in spring and fall clean-up activities, partnering with Neighborhoods in Action groups.
4. Encourage business and citizen involvement in beautification efforts.
5. Recognize residential and business owners which have made contributions to the beautification of their properties.
6. Recruit new members to fill future vacancies on the commission.

Mr. Campbell, who would be finishing his term on the Commission shortly, expressed his gratitude for being able to serve the City in this capacity. He was grateful for those who had the vision of a more beautiful City, and for those who helped to make that a reality.

Mrs. Lauret stated that she has enjoyed meeting with the Commission, and admired their passion for the beautification of Orem City. She expressed a concern regarding the panhandling that was become more of a problem throughout the City. Ms. Manwaring stated that the Commission shares her concern, and they have conducted some research on possible solutions.

The Mayor requested a meeting with the Commission regarding this issue, and Mr. Davidson suggested that a member of the City Attorney's office be present as well.

CITY MANAGER'S APPOINTMENTS

Appointments to Boards and Commissions

There were no appointments to boards and commissions.

PERSONAL APPEARANCES

Time was allotted for the public to express their ideas, concerns, and comments on items not on the agenda. Those wishing to speak should have signed in prior to the meeting, and comments were limited to three minutes or less.

Daryl Hague, resident, expressed his opposition to the proposed high density apartment complex in the Sunset Heights neighborhood. Mr. Hague recently moved from his home in Cherry Hill because of negative effects of new high density apartment complexes in the area. These complexes created problems with overcrowding, traffic, and increased crime. Mr. Hague stated that the neighbors were not opposed to development, but they felt strongly that there were other options that would be a better fit for the area than high density. The neighbors had come together

and developed seven alternative plans for development, and Mr. Hague offered to provide that information to anyone who was interested.

Shawna Theabald, resident, stated that she had loved living in Orem. As background information, Ms. Theabald stated that when Utah Valley University expanded, and the perimeter road was proposed to back right up against her property, she harbored great concerns. Ms. Theabald had grown to appreciate what the University had done to mitigate the negative impacts of the increased traffic and noise. However, student traffic was significantly different from high density residential traffic, as there was less traffic on weekends, holidays, and during the summer. Residential traffic would be consistent. Ms. Theabald then read from the City Municipal Code regarding student/family overlay zones, and argued that a high density complex did not fit into this description. She felt that protecting the existing neighborhoods should be the City's highest priority.

Bob Wright, resident, expressed his opposition to the potential agreement with Siemens Industries, stating that the agreement was premature and needed further study before it was authorized. Mr. Wright believed that City Administration had been stepping outside of their authority to hire outside consultants without the City Council's knowledge and then asking them to solve the problems that they caused at the expense of the taxpayer. He suggested that the item be cancelled or tabled for further research.

CONSENT ITEMS

There were no Consent Items.

SCHEDULED ITEMS

RESOLUTION – Siemens Industry, Inc. Agreement Authorizing the Mayor, or his designee, to execute:

1. A Performance Contracting Agreement between the City and Siemens Industry, Inc., pertaining to the installation of several Facility Improvement Measures (FIMs) designed to significantly reduce the City's energy consumption; and
2. A Master Lease Purchase Agreement associated Leasing Schedule and an Escrow Agreement with Siemens Public, Inc., with regard to the financing of the Equipment that will be installed as part of the FIMs; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such documents.

Siemens Industry, Inc. performed an energy savings audit of the City's buildings and other facilities to identify opportunities to realize energy savings from upgrades to City facilities. As part of the audit, Siemens analyzed City street lights, building lights, heating and cooling systems, temperature settings and controls, operating hours, swimming pool operations, building insulation, windows, boilers and other elements of City facilities.

The audit performed by Siemens identified a number of Facility Improvement Measures (FIMs) that could be implemented to generate energy savings for the City. The proposed FIMs include the following:

1. Street Lighting Upgrades

2. Building Lighting Upgrades and Control
3. Building Automation System Upgrade/Expansion
4. Elevator Upgrades
5. On-site Hypochlorite Generator
6. Pool Evaporation Control
7. Retro-Commissioning
8. Building Envelope and Mechanical Insulation
9. Fan Speed VFD Controls
10. Reduced Pool Circulation Pump Flow
11. Constant Volume to Variable Volume Pumping
12. Destratification Fans
13. Data Center Optimization, Hot Aisle Containment
14. Solar Shading of Windows
15. Boiler Replacement
16. Leisure Pool Pump Switch
17. Motor Replacements
18. Boiler Room Air Barrier
19. Increased Cooling Capacity

Siemens had calculated that implementation of the above-listed FIMs (all equipment or tangible items associated with the FIMs is hereinafter referred to as the “Equipment”) would save the City at least 4,491,395 kWh of electric energy and 83,473 therms of natural gas every year. Installation of the FIMs would also generate operational savings in the form of reduced maintenance. Based on current electricity and natural gas rates and the anticipated increase in these rates over time, Siemens estimated that the energy and operational savings would save the City between \$608,000 and \$893,000 every year with savings in the initial years in the lower end of the range and increasing over time to the higher end of the range. The total average savings over the fifteen year period following installation of the FIMS would be approximately \$759,000 per year.

The City and Siemens had negotiated a contract (the “Siemens Contract”) in which Siemens agreed to install the agreed-upon FIMs within eighteen months. The contract contained a guarantee that the installed FIMs will generate the annual energy savings described above. The contract called for compensation to be paid to Siemens in the amount of \$6,738,778 which would be paid in progress payments as work under the contract was completed.

In order to pay for the installation of the FIMs, the City proposed to enter into a Master Lease Purchase Agreement, associated Leasing Schedule and Escrow Agreement (collectively referred to as the “Lease Agreement”) with Siemens Public, Inc., which was essentially the finance arm of Siemens (for ease of reference, Siemens Industry will hereinafter be referred to as “Siemens Construction” and Siemens Public will be referred to as “Siemens Finance”). The City solicited and reviewed proposals from several qualified firms regarding the funding of the Siemens Contract and ultimately selected the proposal of Siemens Finance as the most advantageous to the City.

Under the Lease Agreement, Siemens Finance will deposit the sum of \$6,738,778 (the contract price) into an escrow account from which progress payments will be made to Siemens Construction until all the work has been completed and the contract price is paid in full. The City

will then make monthly lease payments to Siemens Finance over a period of fifteen years. The lease payments will be made out of savings that the City will realize from the installation of the FIMs.

During the term of the lease, Siemens Finance will have a security interest in the Equipment and will have the right to repossess the Equipment in the event the City does not make the lease payments. At the end of the fifteen years, the lease will be terminated and clear title to all of the Equipment will be conveyed to the City free and clear of any liens (not unlike a “lease to own” contract).

The City’s obligation to make the lease payments was subject to annual appropriation by the City Council. The City Council may, in any year, elect not to appropriate funds to make the lease payments, but Siemens Finance would then have the right to repossess the Equipment pursuant to its security interest.

This item contained two parts. The first part was a request that the City Council authorize the Mayor or his designee to execute the Performance Contracting Agreement between the City and Siemens Construction for the installation of the FIMs. The second part was a request that the City Council authorize the Mayor or his designee to execute the Master Lease Purchase Agreement, associated Leasing Schedule and an Escrow Agreement with Siemens Public, Inc., related to the financing of the Equipment.

The Department of Administrative Services requested that the City Council authorize the Mayor, or his designee, to execute

1. A Performance Contracting Agreement between the City and Siemens Industry, Inc., pertaining to the installation of several Facility Improvement Measures (FIMs) designed to significantly reduce the City’s energy consumption; and
2. A Master Lease Purchase Agreement, associated Leasing Schedule and an Escrow Agreement with Siemens Public, Inc., with regard to the financing of the Equipment that will be installed as part of the FIMs; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such documents.

Mr. Bell said it was a pleasure to be before the City Council to bring their recommendation for approval on these resolutions. They had been working long and hard on this project, and it could potentially save the City close to \$50,000 per month in energy savings.

Mark Cram stated that much of the information he would be presenting will be a review for the City Council, as they have been informed of the progress of this agreement several times previously. He then presented a list of measures they would be taking and the subsequent savings for the City, and confirmed that this information had been validated and verified. By State statute, projects of this nature were required to be cash flow positive and budget neutral to the City. In other words, no new dollars would be allocated to the project from the City, but it would be funded by the savings generated by the measures that were performed.

Mr. Cram then presented a list of items that were considered in conjunction with the project, although some were not recommended. He showed this list so that the Council and the public could see that additional items were investigated and analyzed beyond the actions that would be taken.

Next, Mr. Cram presented the proposed cash flow, and indicated that the annual interest rate was shown below that chart. Closing was anticipated to be around February 19, 2016, at which point the interest rate would be locked. Mr. Cram noted that Siemens guaranteed success, and if those savings were not realized then Siemens would pay the difference financially. The company has had a 99.3 percent success rate.

Mayor Brunst asked if the savings realized would then be used to make payments against the financing over the fifteen year time period, and if the savings would go straight to the City after that time period was over. Mr. Cram confirmed that this was correct. There would be a construction period of eighteen months, and then the lease would continue for the next thirteen and a half years.

Mr. Seastrand asked if this was the first time the City had entered into an agreement of this nature, and if it was successful. Mr. Bell responded that they had entered into an agreement three or four years ago where the Obama Administration gave close to \$1 million for energy improvements, which was mostly used to replace the heating and air systems in the City Center.

Mr. Lentz asked if the projects that were not currently being considered, such as solar panels, could be anticipated in another phase. Mr. Bell responded that there was a possibility for secondary projects, if it was cost effective for the City at that time. Mr. Lentz then asked if other Cities had done multiple phases, and Mr. Cram stated that Salt Lake City was currently on Phase Five of their program. He also informed them that Salt Lake City was seeing significant savings with each phase of the project.

Mr. Lentz asked staff what feedback they had received from the references provided by Siemens Industries. Mr. Bell gave the names of some of the people with whom he had spoken, and which cities they represented, and stated that he had received no negative feedback.

Mr. Sumner asked who would be on the hook if the deal went south.

Mr. Earl asked for clarification on the question. Mr. Sumner asked who would make the payment if there was a misunderstanding or if they locked heads. Mr. Earl said the City was responsible for final payment. Mr. Earl stated that under the Escrow Agreement, the City was obligated to make monthly lease payments. He indicated that the City was setting this up as a lease so the City would actually be leasing the equipment and making monthly lease payments until it was paid off in full after 15 years. The City was dealing with two separate entities. Although they were both Siemens, one was Siemens Public which was the finance arm and the other was Siemens Industry which was the entity that would be installing the equipment. Under the Escrow Agreement, the City had an obligation to always make the lease payments. If something did not go right with the installation of the equipment, if the equipment was faulty or there was bad installation, then the City had remedies under the agreement with Siemens Industry. There were warranties on the equipment and they were warranting the labor that the equipment would be installed in a workmanlike manner and so if something went wrong, the City's remedy would be against Siemens Industry to fix whatever problems might exist. But in any event, the City had to make the lease payments.

Mr. Earl stated that there was one caveat; that because this was a lease, it was subject to annual appropriation of funds by the City Council to make those lease payments. So the City Council could theoretically decide not to appropriate funds to make the lease payments. The problem with that was that Siemens Public had a security interest in all the equipment and so if that were to happen, they would have the right to come in and repossess it.

Mr. Sumner asked if the City would still be on the hook for the loan in such a case. Mr. Earl replied that at that point the City would not. Mr. Earl stated that if the City Council said “we do not like what we got for whatever reason and we do not want to continue making payments on the lease”, the City Council could decide not to appropriate funds. At that point the City did not have to make any more lease payments at all.

Mr. Sumner asked if that would affect the City’s credit. Ms. Lewis responded that she would certainly encourage the City not to do that. Mr. Earl added that that would obviously be a mess if the City had to take out the lights and it was not something that anybody anticipated was going to happen, but it was a possibility.

Mr. Sumner expressed concerns for the LED street lighting installation and the affect if would have on the citizens. LED lighting could be either too bright or not bright enough. He was also concerned about turning all of the energy saving responsibility to Siemens.

In response to Mr. Sumner’s comments, Mr. Bell stated that the City was almost entirely lit by streetlights currently, and those lights would be replaced by LED lighting. It would not be as if the neighborhoods were going from no lighting to bright LED lighting, which would be more startling. Mr. Sumner suggested that they test the LED lighting on small areas of the City rather than replacing the entire City’s lighting at once. Mr. Bell stated that there were already some areas of the City that were lit by LEDs, and they had not received any complaints.

Mr. Spencer commented that usually when something sounded too good to be true, it probably was. He had heard a lot of pros to this agreement, but wanted to know what the cons would be as well. Mr. Bell responded that a con to this would be that the City has to spend money in order to save money. The only other con he could see was the length of the lease agreement.

Mr. Davidson agreed that they would have to spend some money, but they would be contracting with a private firm to pay their fee. Some might suggest that the City could do the improvements independent of a contractor, but the proposed rollout time of twelve to eighteen months was far better than what the City could do alone. Mr. Davidson commented that another con would be that it was impossible to predict the future, and it was uncertain what would happen to the various facilities involved in this project, or what new technologies may come about in the meantime. But he felt that it would be foolish to forfeit such substantial savings while waiting for another solution.

Mr. Seastrand asked if the City would see other savings beyond the energy savings, which began a discussion regarding the lifetime of the LED lights and how much could be saved on replacement costs. Mr. Bell stated that these other types of savings were calculated into the \$50,000 savings calculation.

Mr. Seastrand asked if there would be a greater savings if the energy costs went up in the future. Mr. Cram replied that there would. He referred to the escalation rates in the contract and noted that this was exactly what Mr. Seastrand was talking about. Mr. Cram stated that Siemens agreed with City staff as to what would be reasonable although these were conservative escalation rates. He said that if they utilized escalation rates that were closer to what the utilities were doing, it would generate more savings. But Siemens liked to err on the side of caution so the rates that were shown were proven over the last six years to be very conservative escalation rates.

Mr. Seastrand asked if the rates came in at that 3.5 percent then it was basically as planned. He asked if Siemens would make up the difference if the rate increases came in less and generated less of a savings.

Mr. Cram said there was a caveat to that. The savings were based on kilowatt hours, gallons of water, and decatherms of natural gas and not based on dollars. Historically, the escalation rates had been higher so Orem would see more savings. Siemens had not had a situation where the energy rates had not gone up that quickly.

Mr. Earl said that this was something he looked at closely when he was doing his review of the contract and that the savings that were being projected were actually dependent on the rates going up by at least that amount (the amount shown in the contract). If it was less, that was actually one of the risks—that the City would not realize the same amount of savings if those utility rates did not go up at least that amount. Mr. Earl stated that he went back and looked at natural gas and electricity rates over the last twenty years to see if they had historically gone up by those amounts and in fact they had gone up by at least those amounts. He said the past was no guarantee of what might happen in the future, but it was at least some indication that historically those rates had increased by that amount.

Ms. Lewis explained that the staff examined six different bids for this project, and Siemens was the lowest by close to seventeen basis points. Separate and apart from their services, their financing was more feasible than the other companies.

Mr. Lentz agreed that they would be transferring the energy saving responsibility to Siemens, but he was not as concerned because they were the experts in this situation.

There was a conversation regarding the difference in cost if the City chose to make the improvements independently rather than contract with Siemens. Mayor Brunst felt that the costs were relatively the same, but the timeframe would be much longer if the City did this alone. The construction time with Siemens would be eighteen months, while it would take the City three or four years to construct. Mr. Bell added that Siemens offered the savings guarantee, which the City would not have done otherwise. There was then another discussion regarding the LED lighting versus the costs of their current lighting system.

Mrs. Lauret asked for Ms. Lewis's opinion regarding the lease agreement language. Ms. Lewis stated that there was nothing unusual in the lease, and the terms were reasonable. Staff spent a lot of time working through any potentially difficult legal issues, and they felt confident with the agreement as it was now.

Mayor Brunst commented that he found the agreement to be advantageous and felt that it would be beneficial to the City. However, Mr. Sumner felt that he had not been given sufficient time to review the lease and other documents provided by Siemens, and suggested that the item be continued for two weeks. He also felt that they needed more information from the other cities that had entered into agreements with Siemens. Mr. Sumner asked if a continuation would create any foreseeable issues with the agreement.

Ms. Lewis responded by stating that there could be a change in the interest rate up to two days before the closing date. However, she did not feel that any change would be too significant. Siemens had also guaranteed the proposed pricing for a certain amount of time, and Ms. Lewis was unsure of when that time period would end. Kevin Brown stated that they had seen an increase in the costs every day that they have waited on this, but they have been absorbing this increase for the past six months.

Mr. Davidson addressed a comment made by Mr. Sumner, stating that a pay-as-you-go agreement would be predicated on setting money aside to pay for things as you move forward. In this circumstance, the City had not set aside any money which left them with few options if something needed replacing. The best solution the City had at this point was to enter into a financial agreement with a company like Siemens. Ms. Lewis added that this was a unique situation in which the lease was paid out of the energy savings, but the City would not see those savings until the equipment was installed.

Mr. Lentz stated that conversations on this subject had been going on for over a year. If the Council was not comfortable in turning things over to Siemens now, that would not change in two weeks' time. Mr. Sumner responded that he wanted more time to adequately review the information given.

Mr. Lentz **moved**, by resolution, to authorize the Mayor or his designate to execute a performance contracting agreement between the City and Siemens Industry Inc., and a Master Lease Purchase Agreement, associated Leasing Schedule, and an Escrow Agreement with Siemens Public Inc. Mrs. Lauret **seconded** the motion. Those voting aye: Debby Lauret, Sam Lentz. Those voting nay: Mark Seastrand, Mayor Brunst, Brent Sumner, David Spencer. The motion **failed**.

Mr. Seastrand **moved** that they continue the decision to the City Council meeting on February 23, 2016. Mayor Brunst **seconded** the motion. Those voting aye: Debby Lauret, Mark Seastrand, David Spencer, Brent Sumner, Mayor Brunst. Those voting nay: Sam Lentz. The motion **passed, 6-to-1**.

Mr. Davidson asked for clarification on what the Council needed before the next City Council meeting, so that the applicants could be prepared. The Council requested more information on the lights themselves, and the locations where those had already been installed. They also clarified that they needed additional time to review the agreement and other documents provided.

Mayor Brunst again voiced his support of the agreement, and hoped that a resolution could be made at the next meeting.

RESOLUTION – Amending the policies and procedures for city option funding of recreational and cultural facilities and cultural organizations known as the CARE program

Mr. Steven Downs, Assistant to the City Manager, presented a recommendation that the City Council, by resolution, approve the resolution updating the CARE Policies and Procedures.

The existing CARE policies and procedures were most recently adopted on December 9th, 2008. Since that time, Orem voters renewed the CARE tax for an additional 10 years, keeping the CARE tax in effect through March 31, 2024, and thus requiring changes to reflect the effective dates.

The updated policies and procedures also reflected the creation of a mid-major CARE group which allowed organizations that would otherwise qualify for a mini grant, but had an active 501(c)(3) designation, to qualify for a grant between \$5,000 and \$9,999. This also moved the lower bound of a major grant from \$5,000 to \$10,000.

Additional changes were made to reflect changes to State code as well as eliminate the restrictive language used to define the various disciplines allowed to be funded with CARE funding.

Mr. Downs stated that update to the CARE policies and procedures were a reflection of changes recently made to the State Code. As a brief overview, Mr. Downs stated that they were projecting \$1.96 million in CARE funding, and all revenue would be split evenly between the Cultural Arts and Recreation, with 1.5 percent of that going toward Administration. Mr. Downs also stated that the new applications would be going out on Thursday, and would be due in March. Also, they had come up with criteria that an organization would need to meet to qualify for a mid-major grant allocation. One of the major changes was that the organization must be designated a 501(c)(3) with the IRS. Additionally, the organization must be managed and present in Orem City. Mr. Downs continued by stating that the mid-major grant amount would be between \$5,000 and \$9,999, and the major grant minimum amount was increased to \$10,000. Additionally, some restrictive language was removed from certain definitions in the policy.

Mayor Brunst asked about the eliminated language, and Mr. Downs responded that the language was removed or simplified so that the Council did not feel restricted by what was specifically listed in the CARE policy.

Mrs. Lauret asked for clarification on the requirement for the organization to be managed or present in the City. Mr. Downs explained that previously some groups were based in Lindon or Pleasant Grove, but performed in Orem, and they received grant money. This language would require the organization to actually be in the Orem to receive funds.

Mr. Seastrand expressed a concern with the mid-major category. One designation with major grants was that there were expenses tied to operational costs, disqualifying them from more than 35 percent funding from CARE. The intent was that the CARE tax could not be their primary source of revenue. The mini grants did not have the limitation. Mr. Seastrand felt that the only difference between a mid-major and major grant was the 501(c)(3) designation.

Mr. Downs stated that the request for the change to the policy was initiated by City Council members who felt some of the mini grant recipients could use more funding, but did not meet the

major grant requirements. Mr. Seastrand was concerned that many of the mini grant recipients would now apply for a 501(c)(3) status and seek more money; because there were no other qualifications specified for the mid-major grant, the City Council would have to objectively decide who was awarded these grants.

Mr. Seastrand continued by stating that part of the reason for the CARE tax allocation was for the organizations to grow and become more self-sufficient. He felt that the organizations should provide evidence of other funding in order to qualify for the mid-major grant.

Mayor Brunst felt that the mid-major category would be helpful to the City's organizations.

Mrs. Lauret **moved**, by resolution, to amend the policies and procedures for City option funding of recreational and cultural facilities and cultural organizations known as the CARE program. Mayor Brunst **seconded** the motion. Those voting aye: Mayor Brunst, Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, Brent Sumner. The motion **passed unanimously**.

COMMUNICATION ITEMS

The Monthly Financial Summary for November 2015 was provided to the Council.

CITY MANAGER INFORMATION ITEMS

There were no City Manager information items.

ADJOURNMENT

Mr. Spencer **moved** to adjourn to the meeting. Mr. Seastrand **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Mark Seastrand, David Spencer, Brent Sumner. The motion **passed unanimously**.

The meeting adjourned at 8:03 p.m.

Donna R. Weaver, City Recorder

Approved: March 8, 2016